

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
DENVER MCFADDEN, :
:
Plaintiff, :
: 19-CV-5508 (VSB)
- against - :
: **ORDER OF SERVICE**
:
CITY OF NEW YORK, et al., :
:
Defendants. :
:
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VERNON S. BRODERICK, United States District Judge:

On June 18, 2020, I granted pro se Plaintiff's request to amend his pleadings to add as defendants to this action Dr. Erick Eiting ("Eiting"), New York Police Department ("NYPD") detectives Peter Lumina ("Lumina") and Austin Morange ("Morange"), and NYPD sergeant Al Cantora Ooal ("Ooal, and, collectively with Eiting, Lumina, and Morange, the "New Defendants"). (Doc. 46.) In the order, I stated that no order of service would issue in light of the ongoing pandemic. (*Id.*)

Before any order of service as to the New Defendants could issue, on January 14, 2021, Plaintiff requested that I stay this action in light of his then-imminent release. (Doc. 52.) Defendants did not oppose the request, (Doc. 54), and on January 26, 2021, I stayed this action, (Doc. 55). This action has remain stayed ever since, and the New Defendants have yet to be served.

On December 17, 2021, I directed the parties to inform me whether the stay in this action should be lifted. (Doc. 63.) On January 21, 2022, Defendants wrote that they did not oppose lifting the stay, (Doc. 64), but they attached a letter from Plaintiff indicating that he wished for

this action to remain stayed at least until such time as the New Defendants were served process, (Doc. 64-1). Accordingly, it is hereby

ORDERED that the stay in this action is VACATED. However, there are no further deadlines to comply with until such time as the New Defendants are served process or until I enter a further order setting deadlines. It is further

ORDERED that the Clerk of Court is directed to issue summonses to each of the New Defendants. It is further

ORDERED that to allow Plaintiff to effect service on the New Defendants through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for each of the New Defendants using the addresses of service attached to this order. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all of the paperwork necessary for the Marshals Service to effect service upon each of the New Defendants.

Plaintiff is advised that it is his responsibility to inquire of the U.S. Marshals Service as to whether service has been made and if necessary, to request an extension of time for service.

See Meilleur v. Strong, 682 F.3d 56, 63 (2d Cir. 2012). If within 90 days of issuance of the summons, Plaintiff has not made service or requested an extension of time in which to do so, under Rules 4(m) and 41(b) of the Federal Rules of Civil Procedure, the Court may dismiss this action for failure to prosecute.

The Clerk of Court is respectfully directed to mail a copy of this Order to the pro se Plaintiff.

SO ORDERED.

Dated: January 24, 2022
New York, New York

A handwritten signature in black ink, appearing to read "Vernon S. Broderick".

Vernon S. Broderick
Vernon S. Broderick
United States District Judge

NEW DEFENDANTS AND SERVICE ADDRESSES

1. Erick Eiting, M.D.
854 West 181st Street
Apartment 3D
New York, New York 10033
2. Peter Lumina
1 Police Plaza
New York, New York 10038
3. Austin Morange
1 Police Plaza
New York, New York 10038
4. Al Cantora Ooal
1 Police Plaza
New York, New York 10038